

**BUDGET & FINANCE**

October 30, 2020

Requested by Department of Finance

Offered by **FREEMAN**

ORDINANCE NO. \_\_\_\_\_-2020 authorizing the issuance and sale of bonds in the maximum principal amount of \$4,000,000, for the purpose of refunding certain maturities of income tax revenue bonds of the City issued in 2014, 2015, 2016 and 2019; and declaring an emergency.

BE IT ENACTED by the Council of the City of Akron:

Section 1. Definitions. Words and terms are used in this ordinance with the following meanings:

“Annual Information” means the annual financial information and operating data of the type to be specified in the Continuing Disclosure Certificate in accordance with the SEC Rule.

“Authorized Denominations” means the denomination of \$5,000 or any whole multiple of \$5,000.

“Basic Income Tax” means the City’s municipal income tax, excluding the City’s 0.25% municipal income tax levied in accordance with Ordinance No. 282-2003 enacted by the Council on June 2, 2003, following approval by voters of the City on May 6, 2003.

“Basic Income Tax Revenues” means the revenues of the Basic Income Tax.

“Bond Proceedings” means, collectively, this ordinance, the Certificate of Award, any Purchase Agreement, the Continuing Disclosure Agreement, the Registrar Agreement, the Escrow Agreement and the other proceedings of the City, including the Series 2020 Bonds, that provide collectively for, among other things, the rights of Holders and beneficial owners of the Series 2020 Bonds.

“Capital Appreciation Bonds” means those Series 2020 Bonds designated as Capital Appreciation Bonds in the Certificate of Award and bearing interest compounded on each Interest Payment Date and payable at maturity.

“Certificate of Award” means the certificate authorized by Section 7 of this ordinance, setting forth the terms and other provisions of the Series 2020 Bonds required or authorized by this ordinance.

“Closing Date” means the date of delivery of and payment for the Series 2020 Bonds.

“Code” means the Internal Revenue Code of 1986, as amended. References to the Code and sections of the Code include applicable regulations (whether temporary or final)

under the Code, and any amendments of, or successor provisions to, those sections or regulations.

“Compound Accreted Amount” means, for a Capital Appreciation Bond, the Original Principal Amount of the Capital Appreciation Bond, plus interest accrued and compounded on each Interest Payment Date or other date of determination. The Compound Accreted Amount of a Capital Appreciation Bond as of any date other than an Interest Payment Date is the sum of:

- (a) the Compound Accreted Amount for the most recent Interest Payment Date, plus
- (b) the product of (1) times (2) where
  - (1) is the difference between
    - (A) the Compound Accreted Amount of that Capital Appreciation Bond on the most recent Interest Payment Date, and
    - (B) the Compound Accreted Amount of that Capital Appreciation Bond on the next Interest Payment Date, and
  - (2) is the ratio of
    - (A) the number of days from the most recent Interest Payment Date to the date of calculation, to
    - (B) the total number of days from the most recent Interest Payment Date to the next Interest Payment Date.

In determining the Compound Accreted Amount of a Capital Appreciation Bond as of a determination date before the first Interest Payment Date, the Closing Date is treated as the most recent Interest Payment Date and the Original Principal Amount of that Capital Appreciation Bond is treated as the Compound Accreted Amount as of the Closing Date.

“Continuing Disclosure Agreement” means the continuing disclosure agreement made by the City for the benefit of Holders and beneficial owners of the Series 2020 Bonds in accordance with the SEC Rule. It consists of the covenants in Section 8(b) of this ordinance and the Continuing Disclosure Certificate.

“Continuing Disclosure Certificate” means the certificate authorized by Section 8(b).

“Current Interest Bonds” means those Series 2020 Bonds designated as Current Interest Bonds in the Certificate of Award and bearing interest payable on each Interest Payment Date.

“Debt Service” means all amounts due as principal, interest, and any premium on an issue of securities.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book-entry system to record ownership of book-entry interests in securities or the principal of and interest on securities, and to effect transfers of securities in book-entry form, and means initially The Depository Trust Company, New York, New York, a limited purpose trust company.

“EMMA System” means the MSRB’s Electronic Municipal Market Access System.

“Escrow Agent” means any escrow agent selected by the Director of Finance under Section 9(f).

“Escrow Agreement” means any agreement between the City and the Escrow Agent providing for the deposit of proceeds of the Series 2020 Bonds to refund the Refunded Bonds.

“Escrow Fund” means an escrow fund established under the Escrow Agreement, or an escrow fund established as a separate account in the Bond Payment Fund of the City.

“Federal Tax Status” means the status of the interest as excludable from gross income for federal income tax purposes and not treated as an item of tax preference for purposes of the alternative minimum tax.

“Financing Costs” means any financing costs authorized to be paid by Section 133.01(K), Ohio Revised Code.

“Holder” means, as to any Series 2020 Bond, the person in whose name the Series 2020 Bond is registered on the Register.

“Interest Payment Dates” means June 1 and December 1 of each year, beginning on the first Interest Payment Date designated by the Director of Finance in the Certificate of Award.

“Interim Debt” means indebtedness with a maximum maturity of not more than five years incurred or assumed in anticipation of being refinanced or refunded by Parity Obligations.

“Long-Term Revenue Bonds” means an issue of Parity Obligations having substantially level annual Debt Service and a final maturity of at least 20 years.

“Mandatory Redemption Dates” means December 1 in each of the years designated in the Certificate of Award as Mandatory Redemption Dates.

“Mandatory Sinking Fund Redemption” means redemption in accordance with the mandatory redemption requirements, if any, for the Series 2020 Bonds as determined in the Certificate of Award and as described in Section 3(d).

“Maturity Amount” means, as to a Capital Appreciation Bond, the principal and interest due at stated maturity on that Capital Appreciation Bond.

“Maximum Annual Debt Service” means the highest amount of principal of and interest on the Series 2020 Bonds and Parity Obligations during the then current year or any future year over the remaining term of the Series 2020 Bonds or Parity Obligations.

“MSRB” means the Municipal Securities Rulemaking Board.

“Original Principal Amount” means (a) as to a Current Interest Bond, the face amount, and (b) as to a Capital Appreciation Bond, the principal amount that, when added to the interest on that principal amount accrued and compounded to the Principal Payment Date for that Capital Appreciation Bond, results in the Maturity Amount for that Capital Appreciation Bond.

“Original Purchaser” means the original purchaser of the Series 2020 Bonds designated in the Certificate of Award, in accordance with Section 9(b).

“Outstanding Bonds” means, collectively, (a) the City’s \$32,340,000 Various Purpose Income Tax Bonds, Series 2014 dated November 25, 2014, (b) the City’s \$25,370,000 Parking Facilities Income Tax Revenue Bonds, Series 2015 dated November 12, 2015, (c) the City’s \$14,655,000 Various Purpose Income Tax Revenue Refunding Bonds, Series 2016 dated December 1, 2016 and (d) the City’s \$51,780,000 Various Purpose Income Tax Revenue Bonds, Series 2019 dated December 9, 2019.

“Parity Obligations” means any bonds, notes, or other obligations or guaranties by the City secured by a pledge of the Basic Income Tax Revenues on a parity with or before the Series 2020 Bonds.

“Principal Payment Dates” means December 1 of the years set forth in the table in Section 3(c) of this ordinance or in the Certificate of Award.

“Projects” means the facilities financed or refinanced by the Outstanding Bonds, as further described in the authorizing legislation for the Outstanding Bonds.

“Purchase Agreement” means any Bond Purchase Agreement between the City and the Original Purchaser, entered into in accordance with Section 7.

“Refunded Bonds” means the maturities of the Outstanding Bonds being refunded by the Bonds, as selected by the Director of Finance under Section 10(b)(4).

“Redemption Dates” means the redemption dates for the Refunded Bonds, established by the Director of Finance under Section 10(b)(4).

“Register” means all books and records necessary for the registration, exchange, and transfer of the Series 2020 Bonds.

“Registrar” means the entity designated as the Registrar by the Director of Finance in the Certificate of Award in accordance with Section 9(d).

“Registrar Agreement” means any Bond Registrar Agreement between the City and the Registrar.

“Revenue Bond Index” means rate per annum published in The Bond Buyer 20 Bond Index as of a date within 30 calendar days before the issuance date of a proposed issue of Parity Obligations or, if that index is not published or if the interest on the Parity Obligations is not to be excluded from gross income for federal income tax purposes, the interest rate on Long-Term Revenue Bonds of the City determined in accordance with a written statement from an investment banker experienced in underwriting special obligation municipal bonds within 30 calendar days before the issuance date of the proposed issue of Parity Obligations, setting forth, in the opinion of that investment banker, based upon the best estimates and recent experience under the prevailing market conditions, the fixed rate or rates that the investment banker believes are the lowest rates that would permit the Long-Term Revenue Bonds for which the Revenue Bond Index is to be used to be marketed at part on reasonable and customary terms.

“SEC Rule” means SEC Rule 15c2-12.

“Serial Bonds” means Series 2020 Bonds designated as Serial Bonds in the Certificate of Award and maturing on the dates set forth in the Certificate of Award, and not subject to Mandatory Sinking Fund Redemption.

“Series 2020 Bonds” means the Various Purpose Income Tax Revenue Refunding Bonds, Series 2020, authorized in Section 3 of this ordinance.

“Specified Events” means any of the events specified in SEC Rule Section (b)(5)(i)(C), as in effect and applicable to the Series 2020 Bonds at the time of the primary offering of the Series 2020 Bonds.

“Term Bonds” means the Series 2020 Bonds designated as Term Bonds in the Certificate of Award and maturing on the dates set forth in the Certificate of Award, and subject to Mandatory Sinking Fund Redemption.

“Variable Rate Debt” means and the Series 2020 Bond or any Parity Obligation that does not bear interest throughout its term at a fixed rate, but that does bear interest at a rate that, during part or the entirety of the term of the Series 2020 Bond or any Parity Obligation, varies from time to time based upon a formula or other method of determination.

“Verification Agent” means a verification agent selected by the Director of Finance under Section 9(g).

“Verification Report” means the report delivered by the Verification Agent in accordance with Section 10(b)(3).

Section 2. Findings and Determinations. This Council makes the following findings and determinations:

(a) This Council has previously authorized and issued the Outstanding Bonds to finance costs of the Projects. The Outstanding Bonds are about to mature.

(b) It is now necessary for the City to issue the Series 2020 Bonds in one lot for the purpose of (1) refunding certain maturities of the Outstanding Bonds, and (2) paying Financing Costs of the Series 2020 Bonds. The issuance of the Series 2020 Bonds for these purposes is in the best interests of the City.

(c) The Director of Finance has previously certified to this Council the maximum maturity of the Series 2020 Bonds.

(d) The Series 2020 Bonds are authorized to be issued pursuant to the “home rule” provision of Article XVIII, Section 3 of the Ohio Constitution.

(e) All acts and conditions necessary to be performed by the City or to have been met for the issuance of the Series 2020 Bonds in order to make them legal, valid, and binding special obligations of the City, have been performed and met, or will have been performed and met, at the time of delivery of the Series 2020 Bonds, as required by law.

(f) No statutory or constitutional limitation of indebtedness or taxation will be exceeded by the issuance of the Series 2020 Bonds.

(g) All formal actions of this Council relating to the enactment of this ordinance were taken in an open meeting of this Council, and all deliberations of this Council and of any of its committees that resulted in those formal actions, were in meetings open to the public, in compliance with the law.

Section 3. Terms of the Bonds. The Series 2020 Bonds will have the following terms:

(a) Amount. The Series 2020 Bonds will be issued in the maximum Original Principal Amount of \$4,000,000. The principal amounts of the Series 2020 Bonds to be issued as Current Interest Bonds, as Capital Appreciation Bonds, as Capital Appreciation Bonds that convert at some future date to Current Interest Bonds, as Serial Bonds, and as Term Bonds will be determined by the Director of Finance in the Certificate of Award.

(b) Date. The Current Interest Bonds will be dated the Closing Date, or any other date, not more than 45 days before the Closing Date, as determined by the Director of Finance in the Certificate of Award. The Capital Appreciation Bonds will be dated the Closing Date.

(c) Maturity. The Series 2020 Bonds will mature or be payable by Mandatory Sinking Fund Redemption in the amounts and on the Principal Payment Dates as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2021	\$400,000	2026	\$400,000
2022	400,000	2027	400,000
2023	400,000	2028	400,000
2024	400,000	2029	400,000
2025	400,000	2030	400,000

The Director of Finance may adjust the principal payment schedule shown above, by (1) increasing or decreasing the principal amounts of the Series 2020 Bonds maturing or payable by Mandatory Sinking Fund Redemption on any one or more of the Principal Payment Dates, or (2) by shortening the schedule so that the Series 2020 Bonds will mature over a lesser number of years. The Director of Finance must set forth any adjustment of the principal payment schedule in the Certificate of Award.

(d) Redemption Before Stated Maturity. The Series 2020 Bonds will be subject to redemption before their stated maturity as described in this Section 3(d), unless otherwise determined by the Director of Finance in the Certificate of Award.

(1) Mandatory Sinking Fund Redemption. If any of the Series 2020 Bonds are issued as Term Bonds, the Term Bonds will be subject to Mandatory Sinking Fund Redemption, in part, on the Mandatory Redemption Dates, at a redemption price of 100% of the principal amount being redeemed, plus interest accrued to the redemption date. The principal amounts to be paid by Mandatory Sinking Fund Redemption will be those in the principal payment schedule in Section 3(c) above, unless otherwise determined in the Certificate of Award.

The City will have the option to deliver Term Bonds in any principal amount to the Registrar for cancellation. The City will be entitled to a credit against its obligation to pay Debt Service by Mandatory Sinking Fund Redemption on any future Mandatory Redemption Date for Term Bonds that (A) are delivered by the City to the Registrar, (B) have previously been redeemed other than by Mandatory Sinking Fund Redemption, or (C) have been purchased and canceled by the Registrar as provided in the Registrar Agreement.

(2) Optional Redemption. Unless otherwise determined by the Director of Finance in the Certificate of Award, the Series 2020 Bonds maturing on or after December 1, 2031 will be subject to redemption, at the option of the City, on or after December 1, 2030, in whole or in part on any date, in whole multiples of \$5,000, at the redemption price of 100% of the principal amount being redeemed, plus interest accrued to the redemption date.

The Director of Finance may determine to change the optional redemption provisions relating to the Series 2020 Bonds set forth above by (A) changing the earliest optional redemption date, which may be any date before

the final maturity of the Series 2020 Bonds, and (B) changing the redemption prices for the Series 2020 Bonds, which may not exceed 110% in any year in which the Series 2020 Bonds are subject to optional redemption. The Director of Finance must set forth any change to the optional redemption provisions in the Certificate of Award.

The City's option to redeem the Series 2020 Bonds must be exercised by a notice from the Director of Finance to the Registrar as provided in the Registrar Agreement.

(3) Terms of Redemption. The procedures for partial redemption, for notice of redemption, and for payment of redeemed Series 2020 Bonds must be set forth in the Registrar Agreement.

(e) Interest Rates. The Series 2020 Bonds will bear interest at the rate or rates determined in the Certificate of Award. The weighted average of the rates of interest on the Series 2020 Bonds, determined by taking into account the principal amounts of the Series 2020 Bonds and the terms to maturity or Mandatory Redemption Dates of those principal amounts, may not exceed 6% per annum, calculated on a 360-day year of twelve 30-day months.

(1) Current Interest Bonds. Current Interest Bonds will bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date. Interest on the Current Interest Bonds will be payable on the Interest Payment Dates until the principal amount has been paid or provided for.

(2) Capital Appreciation Bonds. Any Capital Appreciation Bonds will bear interest from their date. The rate of interest on a Capital Appreciation Bond must be a rate that will result in a Maturity Amount for that Capital Appreciation Bond, payable at maturity, as determined by the Director of Finance in the Certificate of Award. Interest on a Capital Appreciation Bond will be accrued and compounded on each Interest Payment Date, and will be payable at maturity. All Capital Appreciation Bonds with the same stated maturity must bear interest at the same compounding rate. The total interest accrued on any Capital Appreciation Bond as of any date will be an amount equal to the amount by which the Compound Accreted Amount of that Capital Appreciation Bond exceeds the Original Principal Amount of that Capital Appreciation Bond as of that date. The Compound Accreted Amounts of the Capital Appreciation Bonds as of the Interest Payment Dates must be set forth in the Certificate of Award. The Compound Accreted Amount of a Capital Appreciation Bond as of any date other than an Interest Payment Date will be calculated in the manner described in the definition of "Compound Accreted Interest" in Section 1.

(f) Form, Numbering, and Denominations. The Series 2020 Bonds must be issued in fully registered form. They must be issued in Authorized Denominations



and in such numbers as requested by the Original Purchaser and approved by the Director of Finance. They must be numbered as determined by the Registrar. They must express on their faces the purpose for which they are issued and that they are issued in accordance with this ordinance. The Series 2020 Bonds will be designated "Various Purpose Income Tax Revenue Refunding Bonds, Series 2020" unless otherwise designated in the Certificate of Award.

Section 4.     Payment. The Debt Service on the Series 2020 Bonds will be payable in lawful money of the United States of America without deduction for the services of the Registrar as paying agent. Principal and any premium on the Series 2020 Bonds will be payable when due upon presentation and surrender of the Series 2020 Bonds at the office of the Registrar. Interest on the Current Interest Bonds will be paid on each Interest Payment Date by check or draft mailed on the Interest Payment Date to the Holder as shown on the Register at the close of business on the 15th day of the month preceding the Interest Payment Date. Interest on the Capital Appreciation Bonds will be payable at maturity, in accordance with Section 3(e)(2) of this ordinance. Notwithstanding the foregoing, so long as the Series 2020 Bonds are issued in book-entry form in a book-entry system, Debt Service on the Series 2020 Bonds will be payable as provided in any agreement entered into by the City in connection with the book-entry system. Payment of Debt Service on any Series 2020 Bond will be made only to or upon the order of the Holder. All such payments will be valid and effectual to satisfy and discharge the City's liability upon that Series 2020 Bond to the extent of the amount or amounts so paid.

Section 5.     Signing and Authentication.

(a)     Signing. The Series 2020 Bonds shall be signed on behalf of the City by the Mayor and the Director of Finance. In the absence of the Mayor, the Series 2020 Bonds shall be signed by the Director of Law and, in the absence of the Director of Finance, the Series 2020 Bonds must be signed by the Treasurer. Both signatures on the Series 2020 Bonds may be facsimiles.

(b)     Authentication. No Series 2020 Bond will be valid or obligatory for any purpose or will be entitled to any security or benefit under the Bond Proceedings unless and until the certificate of authentication printed on the bond certificate is signed by the Registrar as authenticating agent. Authentication by the Registrar will be conclusive evidence that the Series 2020 Bond so authenticated has been duly issued, signed, and delivered under, and is entitled to the security and benefit of, the Bond Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Registrar or by any other person acting as an agent of the Registrar and approved by the Director of Finance on behalf of the City. The same person need not sign the certificate of authentication on all of the Series 2020 Bonds.

Section 6.     Registration, Transfer, and Exchange; Book-Entry System.

(a)     Registration. So long as any of the Series 2020 Bonds remain outstanding, the City shall cause the Registrar to maintain the Register. The person in whose name a Series 2020 Bond is registered on the Register will be regarded as the

absolute owner of that Series 2020 Bond for all purposes of the Bond Proceedings. Neither the City nor the Registrar will be affected by any notice to the contrary, but the registration may be changed as provided in this Section and in the Registrar Agreement.

(b) Transfer and Exchange. Any Series 2020 Bond may be exchanged for Series 2020 Bonds of any Authorized Denomination, as provided in the Registrar Agreement.

All Series 2020 Bonds issued and authenticated upon any exchange or transfer will be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond Proceedings as the Series 2020 Bonds surrendered upon that exchange or transfer.

(c) Book-Entry System. The Series 2020 Bonds shall be originally issued in book-entry form to a Depository, initially The Depository Trust Company, for use in a book-entry system upon the terms provided in the Registrar Agreement. Under the book-entry system, the Series 2020 Bonds will be registered in the name of a Depository or its nominee, the bond certificates in fully-registered form will be deposited with and retained in the custody of the Depository or its agent, and the ownership of interests in the Series 2020 Bonds may be transferred only through a book entry on the records of the Depository.

Subject to the provisions of this ordinance relating to the City's Continuing Disclosure Agreement, the City and the Registrar must recognize and treat the Depository as the Holder of the Series 2020 Bonds for all purposes, including payment of Debt Service, redemption and other notices, and enforcement of remedies.

If any Depository determines not to continue to act as a Depository for the Series 2020 Bonds in a book-entry system or if the City determines to discontinue the book-entry system, the Director of Finance may attempt to establish a securities depository/book-entry relationship with another qualified Depository. If the Director of Finance does not do so, the Director of Finance must direct the Registrar to make provision for notification of the book-entry interest owners by the Depository and to make any other arrangements necessary for the withdrawal of the Series 2020 Bonds from the book-entry system.

If the Series 2020 Bonds are sold in a private placement and not in book-entry form, the City, if requested by a Holder of the Series 2020 Bonds, will complete the necessary procedures to qualify the Series 2020 Bonds as book-entry bonds.

#### Section 7. Sale of the Series 2020 Bonds.

(a) Private Sale. This Council authorizes and directs the Director of Finance to sell the Series 2020 Bonds in a private sale to the Original Purchaser. The purchase price of the Series 2020 Bonds must not be less than 97% of the aggregate principal amount of the Series 2020 Bonds, plus any accrued interest on the Series

2020 Bonds from their date to the Closing Date. The Director of Finance may either sell the Series 2020 Bonds to an investment banker, acting as underwriter, or to a financial institution or other entity or person in a private placement. The Director of Finance may enter into a Purchase Agreement with the Original Purchaser in that private sale, or may sell the Series 2020 Bonds without a Purchase Agreement. The Director of Finance may sell the Series 2020 Bonds at the same time, in the same manner, and in the same offering with other securities of the City, whether or not those other securities have been consolidated with the Series 2020 Bonds in accordance with (d) below.

(b) Certificate of Award. The Director of Finance must deliver a Certificate of Award to the Original Purchaser in connection with the sale of the Series 2020 Bonds. The Director of Finance must state the following in the Certificate of Award: the principal amounts to be issued as Current Interest Bonds, Capital Appreciation Bonds, convertible Capital Appreciation Bonds, Serial Bonds, and Term Bonds; the interest rates on the Series 2020 Bonds; the first Interest Payment Date of the Series 2020 Bonds; the purchase price for the Series 2020 Bonds; the designated Registrar; the Original Purchaser and any other terms required by this ordinance. The Director of Finance may state the following in the Certificate of Award: any changes in the date, the maturity date, the redemption provisions, and the designation of the Series 2020 Bonds; whether the Series 2020 Bonds are to be consolidated with other bond issues; and any other terms authorized by this ordinance, subject to the limitations stated in this ordinance.

(c) Delivery. The Director of Finance must cause the Series 2020 Bonds to be prepared, signed, and delivered to the Original Purchaser. This Council authorizes and directs the Clerk of Council to deliver a true transcript of proceedings of the issuance of the Series 2020 Bonds to the Original Purchaser upon payment of the purchase price. This Council authorizes the Director of Finance to provide to the Clerk of Council, for inclusion in the transcript, a statement of the indebtedness of the City and the other information required by Section 133.33, Revised Code.

(d) Consolidation. If the Director of Finance determines it to be in the best interest of the City, he may combine the Series 2020 Bonds with one or more other bonds of the City payable from the Basic Income Tax Revenues.

## Section 8. Disclosure.

(a) Primary Offering Disclosure - Official Statement. This Council authorizes the Mayor and the Director of Finance, or either of them, if they determine it to be necessary in connection with the sale of the Series 2020 Bonds, to (1) prepare or cause to be prepared, and to make or authorize modifications, completions, or changes of or supplements to, a disclosure document in the form of an official statement, (2) determine, and certify or otherwise represent, when the official statement is to be "deemed final" (except for permitted omissions) or is a final official statement for purposes of the SEC Rule, (3) use and distribute, or authorize the use and distribution of, that official statement and any supplements in connection with the

original issuance of the Series 2020 Bonds, and (4) complete and sign the final official statement together with certificates, statements, or other documents in connection with the finality, accuracy, and completeness of that official statement.

(b) Secondary Market Disclosure - Continuing Disclosure Agreement. For the benefit of the Holders of the Series 2020 Bonds and the beneficial owners of book-entry interests in the Series 2020 Bonds, the City agrees, as the only obligated person with respect to the Series 2020 Bonds under the SEC Rule, to provide financial information and operating data, financial statements, and notices, in the manner required for purposes of paragraph (b)(5)(i) of the SEC Rule.

(1) Information Filing. The City further agrees, in particular, to provide:

(A) to the MSRB through its EMMA System, in an electronic format as prescribed by the MSRB and containing such identifying information as prescribed by the MSRB (1) Annual Information for each City fiscal year, not later than the end of the ninth month following the end of the fiscal year, and (2) when and if available, audited City financial statements for each of those fiscal years;

(B) to the MSRB through its EMMA System, in an electronic format as prescribed by the MSRB and containing such identifying information as prescribed by the MSRB in a timely manner, notice of (1) any Specified Event, within 10 business days of the occurrence of the Specified Event, (2) the City's failure to provide the Annual Information within the time specified above, (3) any change in the accounting principles applied in the preparation of its annual financial statements, (4) any change in its fiscal year, (5) its failure to appropriate funds to meet costs to be incurred to perform the Continuing Disclosure Agreement, and (6) the termination of the Continuing Disclosure Agreement.

(2) Continuing Disclosure Certificate. To further describe and specify certain terms of the Continuing Disclosure Agreement, this Council authorizes and directs the Director of Finance (A) to complete, sign, and deliver the Continuing Disclosure Certificate, in the name and on behalf of the City, and (B) to specify in reasonable detail the Annual Information to be provided (which may be provided by specific reference to other documents previously filed and available in accordance with the SEC Rule), and the City's expectations as to whether audited financial statements will be prepared, the accounting principles to be applied in their preparation, and whether they will be available together with, or separately from, the Annual Information.

(3) Disclosure Procedures. This Council further authorizes and directs the Director of Finance to establish procedures to ensure compliance by

the City with the Continuing Disclosure Agreement, including timely provision of information and notices as described above. Before making any filing in accordance with (b)(2) above or providing notice of the occurrence of any other events, the Director of Finance may consult with and obtain legal advice from bond counsel or other qualified independent special counsel selected by the City. The Director of Finance, acting in the name and on behalf of the City, may rely upon that legal advice in determining whether a filing should be made.

(4) Amendments. The City reserves the right to amend the Continuing Disclosure Agreement, and to obtain the waiver of noncompliance with any provision of the Continuing Disclosure Agreement, as may be necessary or appropriate to achieve its compliance with any applicable federal securities law or rule, to cure any ambiguity, inconsistency, or formal defect or omission, and to address any change in circumstances arising from a change in legal requirements, change in law, or change in the identity, nature, or status of the City, or type of business conducted by the City. Any amendment or waiver will not be effective unless the Continuing Disclosure Agreement (as amended or taking into account that waiver) would have complied with the requirements of the SEC Rule at the time of the primary offering of the Series 2020 Bonds, after taking into account any applicable amendments to or official interpretations of the SEC Rule, as well as any change in circumstances, and until the City has received either (A) a written opinion of bond counsel or other qualified independent special counsel selected by the City that the amendment or waiver would not materially impair the interests of Holders or beneficial owners of book-entry interests in the Series 2020 Bonds, or (B) the written consent to the amendment or waiver by the Holders of at least a majority of the principal amount of the Series 2020 Bonds then outstanding. Annual Information containing any revised operating data or financial information must explain, in narrative form, the reasons for any amendment or waiver and the impact of the change on the type of operating data or financial information being provided.

(5) Enforcement. The Continuing Disclosure Agreement will be solely for the benefit of the Holders of, and beneficial owners of book-entry interests in, the Series 2020 Bonds. The exclusive remedy for any breach of the Continuing Disclosure Agreement by the City will be limited, to the extent permitted by law, to a right of Holders and beneficial owners to institute and maintain legal proceedings to obtain the specific performance by the City of its obligations under the Continuing Disclosure Agreement. Any individual Holder or beneficial owner may institute and maintain those proceedings to require the City to provide a filing if the filing is due and has not been made. Any proceedings to require the City to perform any other obligation under the Continuing Disclosure Agreement (including any proceedings that contest the sufficiency of any filing) may be instituted and maintained only (A) by a trustee appointed by the Holders and beneficial owners of not less than 25% in

principal amount of the Series 2020 Bonds then outstanding, or (B) by Holders and beneficial owners of not less than 10% in principal amount of the Series 2020 Bonds then outstanding, in accordance with Section 133.25(B)(4)(b) or (C)(1), Revised Code, as applicable, or any comparable successor provisions.

(6) Appropriation. The performance by the City of the Continuing Disclosure Agreement will be subject to the annual appropriation of any funds that may be necessary to perform it.

(7) Term. The Continuing Disclosure Agreement will remain in effect only for the period that the Series 2020 Bonds are outstanding in accordance with their terms and the City is an obligated person with respect to the Series 2020 Bonds within the meaning of the SEC Rule. The obligation of the City to provide the Annual Information, audited financial statements, and notices of the events described above will terminate if and when the City is no longer an obligated person with respect to the Series 2020 Bonds.

Section 9. Financing Costs. The City retains the professional services and authorizes the payment of the Financing Costs for the Series 2020 Bonds, as provided in this Section 9.

(a) Bond Counsel. The City retains the legal services of Roetzel & Andress, A Legal Professional Association, as bond counsel for the Series 2020 Bonds. The legal services will be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Series 2020 Bonds and rendering legal opinions upon the delivery of the Series 2020 Bonds. Bond counsel must render those services to the City in an attorney-client relationship. Bond counsel must be paid just and reasonable compensation for those legal services.

(b) Original Purchaser. This Council authorizes the Director of Finance to select the Original Purchaser of the Series 2020 Bonds. The Original Purchaser will be paid for services in accordance with any Purchase Agreement or, if there is no Purchase Agreement, in accordance with its proposal as accepted by the Director of Finance in the Certificate of Award.

(c) Ratings and Insurance. If, in the judgment of the Director of Finance, the filing of an application for (1) a rating on the Series 2020 Bonds by one or more nationally recognized statistical rating organizations, or (2) a policy of insurance from one or more bond insurance providers to better assure the payment of Debt Service on the Series 2020 Bonds, is in the best interest of and financially advantageous to the City, this Council authorizes the Director of Finance to prepare and submit those applications and to provide to those rating agencies or insurance providers the information required for the purpose. This Council further authorizes the fees for those ratings and the premiums for the insurance to be included in Financing Costs authorized under (i) below.

(d) Registrar. This Council authorizes and directs the Director of Finance to appoint a Registrar for the Series 2020 Bonds. The Registrar must be a financial institution able to complete transfer and exchange functions for the Bonds in accordance with standards and conditions applicable to registered corporate securities. The City retains the services of the Registrar for the Series 2020 Bonds. The Registrar will perform the services as bond registrar, authenticating agent, paying agent, and transfer agent for the Series 2020 Bonds as provided in this ordinance. The Registrar will be paid for those services in accordance with the Registrar Agreement.

(e) Municipal Adviser. This Council retains the services of Rockmill Financial Consulting, LLC, as Municipal Advisor for the Series 2020 Bonds. The Municipal Advisor will be paid for those services in accordance with its letter of engagement. This Council authorizes the fees for the Municipal Advisor's services to be included in the Financing Costs authorized under (i) below.

(f) Escrow Agent. This Council authorizes the Director of Finance to select an Escrow Agent for the Refunded Bonds unless the Director of Finance determines to establish the Escrow Fund in the Bond Payment Fund of the City. The Escrow Agent must be a bank or trust company authorized to exercise corporate trust powers in Ohio. The Escrow Agent must be paid for its services in accordance with the Escrow Agreement or its letter of engagement.

(g) Verification Agent. This Council authorizes the Director of Finance to select a Verification Agent unless the Director of Finance has determined that it is unnecessary that the Refunded Bonds be no longer considered outstanding as provided in Section 133.34(D), Revised Code. The Verification Agent must be an independent public accounting firm. The Verification Agent must be paid for its services in accordance with its letter of engagement.

(h) Limits on Authority of Service Providers. In rendering the services described above, as independent contractors, those service providers must not exercise any administrative discretion on behalf of the City in the formulation of public policy; expenditure of public funds; enforcement of laws, rules and regulations of the State, the City, or any other political subdivision; or the execution of public trusts.

(i) Payment of Financing Costs. This Council authorizes and approves the expenditure of the amounts necessary to pay those Financing Costs specifically authorized above and all other necessary Financing Costs in connection with the issuance and sale of the Series 2020 Bonds. Those Financing Costs may be paid by the Original Purchaser in accordance with any Purchase Agreement. To the extent they are not paid by the Original Purchaser, this Council authorizes and directs the Director of Finance to provide for the payment of those Financing Costs from the proceeds of the Series 2020 Bonds to the extent available and, otherwise, from any other funds lawfully available and appropriated for the purpose.

Section 10. Use of Proceeds and Refunding. The proceeds from the sale of the Series 2020 Bonds must be deposited and used, and the Refunded Bonds must be paid, as provided in this Section 10.

(a) This Council appropriates those proceeds for the following purposes, and those proceeds must be used for those purposes.

(1) Any accrued interest or premium received on the sale of the Series 2020 Bonds must be deposited in the Bond Payment Fund of the City and used for the payment of interest on the Series 2020 Bonds on the first Interest Payment Date.

(2) An amount necessary to pay the Financing Costs of the Series 2020 Bonds, to the extent not paid by the Original Purchaser in accordance with any Purchase Agreement and to the extent that the Director of Finance determines to pay those Financing Costs from the proceeds of the Series 2020 Bonds, must be deposited in a separate fund and used for the payment of those Financing Costs.

(3) The remainder of the proceeds must be deposited into the Escrow Fund. If the Escrow Fund is held by the Escrow Agent under the Escrow Agreement, and if the proceeds of the Series 2020 Bonds in the Escrow Fund are not needed to pay the Debt Service on the Refunded Bonds, either as determined in the Verification Report or upon payment and discharge of the Refunded Bonds, those excess proceeds must be transferred to the Bond Payment Fund.

(b) This Council establishes the Escrow Fund, either as a separate account in the Bond Payment Fund or as a separate fund in the custody of the Escrow Agent, as determined by the Director of Finance. The money in the Escrow Fund is pledged for the purpose of refunding the Refunded Bonds.

(1) The money in the Escrow Fund to be invested must be invested in direct obligations of or obligations guaranteed as to payment by the United States. Any money not so invested must remain uninvested.

(2) The investments in the Escrow Fund must mature or be subject to redemption by and at the option of the holder of those investments not later than the date or dates when the money, together with interest other investment income accrued on that money, will be required for the payment of Debt Service on the Refunded Bonds.

(3) If the Director of Finance has determined to appoint a Verification Agent to deliver a Verification Report under Section 9(g), that Verification Agent must deliver its Verification Report to the Escrow Agent and the City on the Closing Date. The Verification Report must establish that the investments in the Escrow Fund, together with the interest or other



investment income on those investments and any uninvested money in the Escrow Fund, will be sufficient, without further reinvestment, for the payment of principal of and interest on the Refunded Bonds due and payable after the Closing Date for the Series 2020 Bonds and before the Redemption Dates, and the payment of the remaining principal, any premium, and all accrued interest on the Refunded Bonds on the Redemption Dates. The Verification Report must also determine the yield on the investments in the Escrow Fund and the yield on the Series 2020 Bonds and the Refunded Bonds.

(4) This Council authorizes the Director of Finance to select the series and maturities of the Outstanding Bonds to be refunded, to establish the Redemption Dates of the Refunded Bonds, and to give any required notices of redemption of the Refunded Bonds. The Redemption Dates must be the earliest date on which the Refunded Bonds are subject to redemption at par, or any earlier date that will achieve greater interest cost savings to the City, or any later date that will achieve greater interest cost savings to the City and that is permitted by the Code.

Section 11. Security and Source of Payment. The Series 2020 Bonds will be special obligations of the City.

(a) The Series 2020 Bonds will be special obligations of the City and will be payable solely from the Basic Income Tax Revenues, and secured by a pledge of:

(1) The Basic Income Tax Revenues.

(2) The proceeds to be received from the sale of any bonds issued to refund the Series 2020 Bonds.

(3) Any money remaining from the sale of the Series 2020 Bonds after the payment of the Financing Costs of the Series 2020 Bonds and not required to refund the Refunded Bonds.

(b) During the years while the Series 2020 Bonds are outstanding, the City will levy and collect annually the Basic Income Tax. The City will appropriate annually from the Basic Income Tax the amount of Revenues necessary to pay the annual Debt Service on the Series 2020 Bonds, to the extent not paid from other sources. The City covenants not to repeal the Basic Income Tax, or to reduce the rate of the Basic Income Tax while the Series 2020 Bonds are outstanding.

(c) The Series 2020 Bonds will not constitute general obligation debt of the City and will not constitute a debt or pledge of the full faith and credit of the City. The Holders of the Series 2020 Bonds have no right to have taxes, other than the Basic Income Tax, levied by the City to pay Debt Service on the Series 2020 Bonds when due. Nothing in this ordinance will be construed as requiring the City to use or apply to the payment of Debt Service on the Series 2020 Bonds any funds or revenues from any source other than the Basic Income Tax Revenues. But nothing in this ordinance will

be deemed to prohibit the City from using, to the extent that it is authorized by law to do so, any other resource for the fulfillment of any of the terms, conditions, or obligations of this ordinance or of the Series 2020 Bonds.

Section 12. Federal Tax Matters. The City covenants that it will take those actions required to maintain the Federal Tax Status of the Series 2020 Bonds and that it will not take or permit to be taken any actions that would adversely affect that Federal Tax Status. Without limiting these covenants, the City specifically covenants as follows:

(a) Private Activity Bonds. The City will apply the proceeds received from the sale of the Series 2020 Bonds to those uses described in Section 10. The City will not permit the use of the Projects by any person, will not secure or derive the money for payment of Debt Service on the Series 2020 Bonds by any property or payments, and will not loan the proceeds of the Series 2020 Bonds to any person, all in a manner as to cause the Series 2020 Bonds to be “private activity bonds” within the meaning of Code Section 141(a).

(b) Arbitrage. The City will restrict the use of proceeds of the Series 2020 Bonds in the manner and to the extent as may be necessary, after taking into account reasonable expectations at the time of the delivery of and payment for the Series 2020 Bonds, so that the Series 2020 Bonds will not constitute “arbitrage bonds” within the meaning of Code Section 148. The Director of Finance or any other official having responsibility for issuing the Series 2020 Bonds, is authorized and directed, alone or in conjunction with any other officer, employee, or consultant of the City, to sign and deliver a certificate of the City, for inclusion in the transcript of proceedings for the Series 2020 Bonds, setting forth the reasonable expectations of the City on the Closing Date, regarding the amount and use of the proceeds of the Series 2020 Bonds in accordance with Code Section 148. If required, the City will limit the yield on any “investment property” (as defined in Code Section 148(b)(2)) acquired with the proceeds of the Series 2020 Bonds.

(c) Arbitrage Rebate. Unless the gross proceeds of the Series 2020 Bonds are expended in accordance with one of the spending period exceptions set forth in Treas. Reg. §1.148-7, the City will pay the amounts required by Code Section 148(f)(2) to the United States at the times required by Code Section 148(f)(3). The City will maintain the books and records and make the calculations and reports that are required to comply with the Code’s arbitrage rebate requirements.

(d) Federal Guarantee. The City will not permit the use of the Projects, or make loans of the proceeds of the Series 2020 Bonds, or invest the proceeds of the Series 2020 Bonds in a manner as to cause the Series 2020 Bonds to be “federally guaranteed” within the meaning of Code Section 149(b).

(e) Information Reporting. This Council authorizes the Director of Finance or any other official of the City having responsibility for issuing the Series 2020 Bonds to sign and file a Form 8038-G for the Series 2020 Bonds with the Internal Revenue Service.

Section 13.    Signing and Delivery of Series 2020 Bonds and Documents.    This Council authorizes and directs the Mayor and the Director of Finance, or the persons designated to sign in their absence, to sign and deliver the Series 2020 Bonds in accordance with Section 5 of this ordinance. This Council authorizes and directs the Mayor and the Director of Finance, or either of them, to sign and approve a preliminary official statement, a final official statement, and supplements and amendments to both in accordance with Section 8 of this ordinance.

(a)    This Council authorizes and directs the Director of Finance to sign and deliver, on behalf of the City:

- (1)    The Certificate of Award.
- (2)    Any Purchase Agreement.
- (3)    The Registrar Agreement.
- (4)    The Continuing Disclosure Certificate.
- (5)    The Escrow Agreement.
- (6)    Any agreements or letters of representation in connection with a book-entry system for the Series 2020 Bonds.
- (7)    Applications for and agreements in connection with obtaining a policy of municipal bond insurance for the Series 2020 Bonds.
- (8)    Applications for and agreements in connection with obtaining one or more ratings for the Series 2020 Bonds.

In the absence of the Director of Finance, this Council authorizes the Treasurer to sign and deliver any of those documents and certificates.

(b)    This Council authorizes the Director of Finance to sign and deliver, on behalf of the City, in her capacity as fiscal officer of the City:

- (1)    Any certificates required under Section 5705.41, Revised Code, for any of the agreements in connection with the Series 2020 Bonds.
- (2)    The statements of indebtedness provided for in Section 133.33(B), Revised Code.

In the absence of the Director of Finance, this Council authorizes and directs the Treasurer to sign and deliver any of those documents and certificates.

(c)    This Council authorizes the Mayor, the Law Director, the Director of Finance, the Treasurer, the President of Council, the Council Clerk, and any other City officials:

(1) to sign and deliver any certificates, instruments, and other documents that the official considers necessary or appropriate in connection with the issuance and sale of the Series 2020 Bonds and that are not inconsistent with this ordinance; and

(2) to take any actions as are necessary or appropriate to consummate the transactions contemplated by this ordinance.

Section 14. Covenant as to Parity Obligations.

(a) The City, so long as the Series 2020 Bonds are outstanding, will not issue any Parity Obligations, unless before the sale of the Parity Obligations the City's Director of Finance certifies that the average annual Basic Income Tax Revenues for the two fiscal years before the year in which the Parity Obligations are issued, adjusted to reflect, if necessary, changes in the rates of the Basic Income Tax in effect on the date of issuance of the Parity Obligations, will aggregate not less than 300% Maximum Annual Debt Service on the Series 2020 Bonds and Parity Obligations to be outstanding immediately after the issuance of the Parity Obligations.

(b) In calculating Maximum Annual Debt Service:

(1) Debt Service on Parity Obligations constituting Interim Debt will be deemed to be equal to the Debt Service that would be required for an issue of Long-Term Revenue Bonds in the same principal amount bearing interest at a rate equal to 90% of the Revenue Bond Index.

(2) Debt Service on Variable Rate Debt must be calculated using the following interest rate assumptions:

(A) If the Variable Rate Debt has been outstanding for at least one year, use the average of the interest rate on the Variable Rate Debt over the year preceding the year in which the Parity Obligations are being issued.

(B) If the Variable Rate Debt has not been outstanding for at least one year, use the average of the interest rate on the Variable Rate Debt from its date of issuance to the date of the City's certificate.

(3) If the Parity Obligations are being issued to refund Parity Obligations, and if the Parity Obligations being refunded will be paid or deemed paid upon issuance of the Parity Obligations, the Director of Finance shall use the Debt Service for the Parity Obligations being issued and shall exclude the Debt Service for the Parity Obligations being refunded.

Section 15. Certification to County Fiscal Officer. This Council directs the Director of Finance or the Clerk of this Council to forward a certified copy of this ordinance and a copy of the Certificate of Award to the County Fiscal Officer.

Section 16.    Emergency and Effective Date.    This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, welfare, and safety of the City and for the further reason that the Series 2020 Bonds must be sold promptly to take advantage of prevailing favorable market conditions to achieve maximum interest rate savings; and provided this ordinance receives the affirmative vote of two thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest period allowed by law.

Passed: \_\_\_\_\_, 2020

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Approved: \_\_\_\_\_, 2020

\_\_\_\_\_  
Mayor

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AKRON CITY COUNCIL

UNIFORM CITY COUNCIL REPORT  
PART I

Subject/Project: Issuance of Debt; 2020 Refunding Certain Bond maturities not to exceed \$ 4,000,000: IT issues 2014, 2015, 2016, and 2019 \_\_\_\_\_

Department of Origin: Treasury \_\_\_\_\_

Bureau of Origin: \_\_\_\_\_

Division of Origin: \_\_\_\_\_

Fact Sheet Prepared by: Sherrill Bryson \_\_\_\_\_ Date: 10/27/20 \_\_\_\_\_

Financial Data

Current Request:	Budget Cost		Current Estimate of Costs		Additional Appropriation Over Budgeted Amount
	Source	Amount	Source	Amount	
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
Total Project (if applicable):	Source	Amount	Source	Amount	
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____

PART II

Purpose of Legislation:

To authorize the sale of bonds in the maximum principal amount of \$4 MLN to provide funds for refunding certain 2014, 2015, 2016 and 2019 Income Tax Bond maturities.

Impact or Objective of the Legislation:

Alternatives:

Earlier Legislation on this Subject:

Additional Comments/Remarks (as appropriate):